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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,535	08/05/2003	Henry Frank Gasbarro	NG(MS)-6619	6064
26294	7590	03/28/2006	EXAMINER	
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114			BROADHEAD, BRIAN J	
			ART UNIT	PAPER NUMBER
			3661	
				DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/634,535	GASBARRO, HENRY FRANK	
	Examiner Brian J. Broadhead	Art Unit 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 September 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 August 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8-5-03, 2-3-05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input checked="" type="checkbox"/> Other: <u>IDS of 9-22-05</u> . |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: The brief descriptions of the drawings should be after the summary of the invention.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10, 11, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 10 recites the limitation "the processing unit" in line 1. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 11 is rejected for being dependant on an indefinite claim.

6. Claim 15 recites the limitation "the routing information" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1, 2, 4, 5, 8-10, 13-17, and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Obradovich et al., 6148261.

9. As per claims 1, 2, 4, 5, 8, 9, 10, 13, 14, 15, 16, 17, and 19, Obradovich et al. disclose a global positioning system that determines the location of the device on lines 12, on column 2; an I-band transceiver that broadcasts the determined location and receives location data for at least one other communication device on line 16, on column 7, and lines 48, on column 11, through line 14, on column 12; a PDA that provides a user interface with the communications module and displays the determined location and the received location data on lines 24-42, on column 7; a single antenna(32) to transmit and receive signals at L-band frequencies on lines 49-51, on column 7; an I/O board that translates communication on line 64, on column 7, through line 17, on column 8; an internal power supply(38a); the PDA has a touch screen display on line 27, on column 7; system memory that contains geographic information concerning an area of interest(22); encoding addressing information within the L-band broadcast and the routing info including at least one of a plurality of logical networks as a recipient in figure 5c;

10. As per claims 20 and 21, Obradovich et al. disclose means for receiving input from a user in figure 2; means for transmitting a preset text message with the location information in response to user input in figure 5c.

11. As per claims 22, 23, and 24, Obradovich et al. disclose means for controlling power consumption allowing user control of power consumption, and adjusting power consumption of at least one of means for transmitting, determining, and displaying in

lines 25-27, on column 8. This section discloses several operating systems that all are known to provide power control options.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obradovich et al., 6148261.

14. Obradovich et al. disclose the limitations as set forth above. They do not disclose explicitly that the system memory is an EEPROM. Official notice is taken that EEPROM use is widely known in the art. This is a design choice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an EEPROM in the invention of Obradovich et al. because it is a design choice and would provide expected results.

15. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obradovich et al., 6148261, as applied to claims 1, 2, and 8 above, and further in view of Robinett, 2002/0177465.

16. Obradovich et al. disclose the limitations as set forth above. They do not disclose the antenna is a detachable quadrifilar helix antenna. Robinett teaches a detachable quadrifilar helix antenna in paragraphs 72-73. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the antenna

of Robinett in the invention of Obradovich et al. because such modification would provide an antenna known to provide reception at L-band frequencies and have the ability to stow it as stated in Robinett.

17. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obradovich et al., 6148261, as applied to claims 1, and 17 above, and further in view of Lada et al., 2005/0114553.

18. Obradovich et al. disclose the limitations as set forth above. They do not disclose a battery that is attachable to the internal power source or battery of the PDA. Lada et al. teaches a battery that is attachable to the internal power source or battery of the PDA in paragraphs 40-41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the battery of Lada et al. in the invention of Obradovich et al. because such modification would extend the life of the first battery as stated in Lada et al.

19. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obradovich et al., 6148261, as applied to claim 1 above, and further in view of Pande et al., 6640084.

20. Obradovich et al. disclose the limitations as set forth above. They do not disclose a heat sink as part of the enclosure. Pande et al. teach using a heat sink in lines 8-20, on column 3. It would have been obvious to one of ordinary skill in the art at the time the invention was made to sue a heat sink because such modification would enable the transceiver to be packaged in a smaller form as discloses on lines 25-40, on column 2, of Pande et al.

Double Patenting

21. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

22. Claims 1 through 24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 through 25 of copending Application No. 10/634295. Although the conflicting claims are not identical, they are not patentably distinct from each other because one claims a PDA and one claims a tablet PC that are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Broadhead whose telephone number is 571-272-6957. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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